APPEAL NO. 040574
FILED MAY 3, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A consolidated contested case hearing was held on February 12, 2004. With regard to (Docket No. 1), the hearing officer determined that the appellant's (claimant) (date of injury for Docket No. 1), compensable injury extends to and includes a cervical sprain/strain after (date of injury for Docket No. 2). With regard to (Docket No. 2), the hearing officer determined that the claimant did not sustain a compensable injury on (date of injury for Docket No. 2); that the claimed injury does not extend to or include a cervical or lumbar injury; and that the claimant did not have disability. The claimant appeals the hearing officer's determinations in both dockets and attaches new evidence to his request for review, which was not admitted at the hearing. The appeal file contains no response from respondent 1 (carrier 1). Respondent 2 (carrier 2) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The claimant attached new evidence to his appeal, which was not offered into evidence at the hearing. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The disputed issues in this case involved factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision in either of the dockets is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant contends that the attorney for carrier 2 badgered him at the hearing and spoke too quickly. We find no evidence in the record to substantiate the badgering assertion. Additionally, there is no indication that the claimant was not able to understand the attorney or that the claimant indicated at the hearing that the attorney was speaking too quickly.

The decision and order of the hearing officer are affirmed.

The true corporate name of insurance carrier 1 is **SECURITY INSURANCE COMPANY OF HARTFORD** and the name and address of its registered agent for service of process is

CORPORATION SERVICES COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701

and the true corporate name of insurance carrier 2 is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.

_____
Chris Cowan
Appeals Judge

CONCUR:

_____
Margaret L. Turner
Appeals Judge

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Edward Vilano
Appeals Judge